

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
Cr. B. A. No.1244 of 2017

Date Order with signature(s) of Judge(s)

For hearing of bail application

11.10.2017

Mr. Aroon Parsad, advocate for applicants
Mr. Mushtaq Ahmed Jagirani, Spl. Prosecutor, Pakistan Rangers Sindh

Applicants/accused Muhammad Adnan Khan and Kashif Ali are seeking post arrest bail in F.I.R. No.40/2016, registered at P.S. SIU East, Karachi on 28.03.2016, under sections 353, 324, 34, PPC read with section 7 of the Anti-Terrorism Act, 1997. After registration of F.I.R., investigation was conducted and challan was submitted against the accused before learned Judge, Anti-Terrorism Court-II, Karachi, under the above referred sections.

2. Bail application was moved on behalf applicants/accused and co-accused Taufiq Ali Jagirani before the trial court, the same was dismissed by the learned trial court vide order dated 19.06.2017. Co-accused Taufiq Ali Jagirani, after dismissal of bail application by the trial court, approached this Court and in Criminal bail application No.D-255/2017, concession of bail was extended to applicant/accused Taufiq Ali Jagirani vide order dated 28.03.2017.

3. Learned counsel for the applicants/accused mainly contended that co-accused Taufiq Ali Jagirani has already been granted bail by this Court and case of the applicants/accused is identical to the case of co-accused Taufiq Ali Jagirani. It is also contended that it is the case of ineffective firing. It is also submitted that applicants/accused were picked up by the law enforcement agency before registration of F.I.R. and press conference was held by Pakistan Rangers Sindh on 15.03.2016. It is also submitted that mother of applicants/accused submitted applications to concerned S.H.O. and other high officials regarding picking up of the applicants/accused by the law

enforcement agency. Lastly, it is submitted that case of applicants/accused requires further inquiry.

4. Mr. Mushtaq Ahmed Jahangiri, learned Special Prosecutor for Pakistan Rangers Sindh concedes that the case of the applicants/accused is identical to the case of co-accused Taufiq Ali Jagirani, however, he submits that case has been proceeded before the trial court and evidence of material witnesses has already been recorded. He opposed the bail application.

5. We are inclined to grant bail to applicants/accused Muhammad Adnan Khan and Kashif Ali for the reasons that co-accused Taufiq Ali Jagirani has already been granted bail by this Court vide order dated 28.03.2017 for the following reasons:-

“We have heard the learned counsel for the applicant, Special Public Prosecutor and perused the record. Contention of learned counsel for the applicant that it is a case of ineffective firing carries weight as none from either side or any passerby received injury or scratch during the alleged encounter. Besides, during investigation except alleged recovery of one unlicensed pistol with live bullets police could not collect any material connecting the applicant with the commission of offence. Strangely, police said to have recovered one un-licensed pistol with bullets from the applicant but learned Special Public Prosecutor could not point out whether any case under the Sindh Arms Act, 2013 has so far been registered against the applicant. Besides, all the prosecution witnesses are police personnel but till date only complainant SIP Rashid Hussain Alvi could be examined while the applicant has been behind the bars since the date of alleged incident i.e. 27.03.2017.

For the foregoing reasons, we are of the considered view that applicant has made out a case for grant of bail as his participation in the alleged occurrence requires further inquiry. Accordingly, instant application is allowed and applicant Taufiq Ahmed Jagirani son of Noor Muhammad Jagirani is granted post arrest bail subject to his furnishing solvent surety in the sum of Rs.300,000/- (rupees three hundred thousand) with PR bond in the like amount to the satisfaction of the trial Court.”

6. Case of the applicants/accused is identical. Admittedly, it appears that investigation officer did not inquire into the press conference and applications submitted by the mothers of the applicants/accused that accused were picked up by the law enforcement agency before registration of the case. It is also a case of infective firing. Prima facie, case against applicants/accused requires

further inquiry. Therefore, instant bail application is allowed. Applicants/accused Muhammad Adnan Khan son of Muhammad Umer Khan and Kashif Ali son of Karim Bux are granted post arrest bail in the sum of Rs.300,000/- (rupees three hundred thousand) each with P.R. bond in the like amount to the satisfaction of the trial Court.

7. Needless, to mention here that the observations made hereinabove are tentative in nature, the same would not influence the trial court while deciding the case of the applicants/accused on merits.

J U D G E

J U D G E

Gulsber/PS